

RESTORING GI BILL FAIRNESS ACT OF 2011

MAY 20, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MILLER of Florida, from the Committee on Veterans' Affairs, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1383]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 1383) to temporarily preserve higher rates for tuition and fees for programs of education at non-public institutions of higher learning pursued by individuals enrolled in the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs before the enactment of the Post-9/11 Veterans Educational Assistance Improvements Act of 2010, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1383 OFFERED BY MR. MILLER OF FLORIDA

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Restoring GI Bill Fairness Act of 2011”.

SEC. 2. PRESERVATION OF HIGHER RATES FOR TUITION AND FEES FOR PROGRAMS OF EDUCATION AT NON-PUBLIC INSTITUTIONS OF HIGHER LEARNING PURSUED BY INDIVIDUALS ENROLLED IN SUCH PROGRAMS PRIOR TO CHANGE IN MAXIMUM AMOUNT.

(a) IN GENERAL.—Notwithstanding paragraph (1)(A)(ii) of section 3313(c) of title 38, United States Code (as amended by the Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (Public Law 111-377)), the amount payable under that paragraph (or as appropriately adjusted under paragraphs (2) through (7) of that section) for tuition and fees for pursuit by an individual described in subsection (b) of an approved program of education at a non-public institution of higher learning during the period beginning on August 1, 2011, and ending on July 31, 2014, shall be the lesser of—

- (1) \$27,000; or
- (2) the established charges payable for the program of education.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is an individual entitled to educational assistance under chapter 33 of title 38, United States Code, who, on or before April 1, 2011, was enrolled in a non-public institution of higher learning in a State in which—

- (1) the maximum amount of tuition per credit in the 2010–2011 academic year, as determined using the table of the Department of Veterans Affairs entitled “Post-9/11 GI Bill 2010–2011 Tuition and Fee In-State Maximums”, published October 27, 2010 (75 Fed. Reg. 66193), exceeded \$700; and
- (2) the combined amount of tuition and fees for full-time attendance in the program of education in such academic year exceeded \$17,500.

(c) DEFINITIONS.—In this section:

- (1) The term “approved program of education” has the meaning given that term in section 3313(b) of title 38, United States Code.
- (2) The term “established charges”, with respect to a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs on the basis of a full academic year) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.
- (3) The term “institution of higher learning” has the meaning given that term in section 3452(f) of title 38, United States Code.

SEC. 3. LIMITATION ON COST OF LIVING INCREASES FOR CERTAIN EDUCATIONAL ASSISTANCE PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

During the 24-month period beginning on October 1, 2011, the maximum amount of the monthly stipend payable under subparagraph (B) of paragraph (1) of subsection (c) of section 3313 of title 38, United States Code, is the amount payable under clause (i) of such subparagraph on August 1, 2011. Upon the expiration on the 24-month period, the amount of such monthly stipend shall be the amount otherwise authorized under section 3313(c)(1)(B) of title 38, United States Code.

PURPOSE AND SUMMARY

H.R. 1383 was introduced on April 6, 2011, by Chairman Jeff Miller of Florida. H.R. 1383, as amended, would temporarily increase the Post-9/11 GI Bill program’s national cap on tuition and fees paid by the Department of Veterans Affairs on behalf of vet-

erans pursuing programs of education at non-public institutions of higher learning from \$17,500 to \$27,000.

BACKGROUND AND NEED FOR LEGISLATION

The Post-9/11 GI Bill (Chapter 33 of title 38 United States Code) was signed into law by President Bush as section 5003(a)(1) of title V of Public Law 110–252 on June 30, 2008, and was effective August 1, 2009. Under the new program, VA would pay 100 percent of the maximum in-state undergraduate tuition and fees on behalf of a veteran with at least 36 cumulative months of active duty service since September 11, 2001. The maximum payment would apply to veterans attending both public and private degree-granting institutions of higher learning. Veterans with fewer than 36 months of active duty would be eligible for a tiered structure of payments that reflected a 10 percent reduction in the maximum in-state undergraduate tuition and fees for each six months of active duty served below the 36-month standard.

Based on the state rate formula, VA made tuition and fee payments in excess of \$20,000 per school year for veterans attending some private institutions. Many of those students will fall under the \$17,500 cap set by Public Law 111–377.

In addition to tuition and fee payments, the new Post-9/11 GI Bill provides a monthly living stipend. Veterans enrolled greater than one half time in a course of study that includes at least one traditional classroom-based course during the academic period are eligible for a monthly living stipend. The stipend is the same amount paid to an E–5 (generally the pay grade of a sergeant or petty officer second class) at the “with-dependents” rate in the zip code of the school the veteran is attending. For example, a veteran attending the University of Maryland in College Park, Maryland, receives \$1,881 per month for the 2010–2011 school year. Veterans enrolled in education delivered solely online were not eligible for the monthly stipend. Finally, the program also provided a \$1,000 book stipend per school year.

Despite these very generous benefits, some tuition and fees at some schools, both public and private, exceeded the state-based formula. To minimize or eliminate veterans’ out-of-pocket costs, the Post-9/11 GI Bill featured a Yellow Ribbon program which authorized VA to share those excess costs with schools on a dollar-for-dollar matching basis. The Yellow Ribbon provision continues unchanged.

The Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (Public Law 111–377), which was enacted on January 4, 2011 made several changes to the Post-9/11 GI Bill. Those changes included a reduction of tuition and fee payments for veterans attending non-public institutions to an annual maximum of \$17,500 effective August 1, 2011. P.L. 111–377 also reduced tuition and fee payments for non-resident veterans attending public institutions at the out-of-state rate to the actual in-state rate charged by the institution.

Although the cap of \$17,500 a year will be a potential increase in payments for veterans in most states, some veterans attending non-public schools in New York, Arizona, Michigan, New Hampshire, Pennsylvania, South Carolina, and Texas, will see their tuition and fees payments reduced. Reducing tuition and fee payments

will force veterans in these states to rely on increased Yellow Ribbon contributions by schools or to find non-GI Bill resources such as loans, grants, or employment income.

During his May 3, 2011 Subcommittee testimony on H.R. 1383, Tom Tarantino, representing the Iraq and Afghanistan Veterans of America (IAVA) stated; “IAVA proudly supports H.R. 1383. This bill will ensure that a small minority of veterans who, due to poorly constructed and confusing tuition and fee regulations, would have had their benefits reduced as a result of the Post-9/11 GI Bill’s expansion”

H.R. 1383, as amended, would temporarily increase the cap on tuition and fees from \$17,500 to \$27,000 for three years beginning on August 1, 2011, for veterans who were enrolled in certain non-public institutions of higher learning before April 1, 2011. To qualify, the institution’s per-credit hour charges must exceed \$700 and its total tuition and fees must exceed \$17,500 per academic year.

The failure to “grandfather” affected veterans will create an inequity since many of the veterans enrolled in high cost schools based on the presumption that they would receive at least the highest in-state tuition and fee rate. This grandfathering provision would apply to veterans who began their enrollments prior to April 1, 2011. Veterans who initially enroll after that date would be subject to the existing \$17,500.

To meet statutory Pay-As-You-Go (PAYGO) offset requirements, the bill would freeze the monthly living stipend for all Post-9/11 participants at the rates in effect for the 2010–2011 academic year for a period of 24 months beginning October 1, 2011. The Committee also notes that among the five major veteran service organizations, only the Paralyzed Veterans of America opposed the bill during the May 3, 2011 Subcommittee on Economic Opportunity’s hearing on the bill. In the past, Congress has used similar offsets when used to improve veterans’ benefits as is being done in H.R. 1383, as amended. For example, Public Law 111–377 saved nearly \$4 billion in veterans benefits by capping tuition and fee payments and eliminating monthly living stipend payments during semester intervals.

HEARINGS

On May 3, 2011, the Subcommittee on Economic Opportunity conducted a legislative hearing on various bills introduced during the 112th Congress, including H.R. 1383. The following witnesses testified: Ms. Christina M. Roof, National Acting Legislative Director for AMVETS; Mr. Tom Tarantino, Senior Legislative Associate for Iraq and Afghanistan Veterans of America; Mr. Shane Barker, Senior Legislative Associate of National Legislative Service for the Veterans of Foreign Wars of the United States; Mr. Robert Madden, Assistant Director of National Economic Commission for The American Legion; Mr. Andrew Connolly of Dubuque, IA; Mr. Keith M. Wilson, Director of the Education Service for the Veterans Benefit Administration of the U.S. Department of Veterans Affairs, who was accompanied by Mr. Jan R. Frye, Deputy Assistant Secretary for Acquisitions and Logistics for the U.S. Department of Veterans Affairs and Mr. F. John Brizzi, Deputy Assistant General Counsel for the U.S. Department of Veterans Affairs.

Organizations submitting statements for the record included: Paralyzed Veterans of America, Gold Star Wives of America, National Association of Veteran Program Administrators, and the Military Officers Association of America.

SUBCOMMITTEE CONSIDERATION

On March 5, 2011, the Subcommittee on Economic Opportunity met in an open markup session and ordered favorably forwarded to the full Committee H.R. 1383, as amended, by voice vote. During consideration of the bill the following amendment in the nature of a substitute was considered:

An amendment in the nature of a substitute by Chairman of the Subcommittee on Economic Opportunity, Marlin Stutzman of Indiana, to specify the period during which the freeze on the monthly living stipend would take effect (October 1, 2011, through September 30, 2013), was agreed to by voice vote.

COMMITTEE CONSIDERATION

On May 12, 2011, the full Committee met in an open markup session at which time Chairman Jeff Miller of Florida offered an amendment in the nature of a substitute. The substitute deleted provisions in Section 2 that required the Department of Veterans Affairs to make payment for tuition and fees based on the maximum in-state undergraduate rate and substituted a provision to increase the cap on payment for tuition and fees to the actual amount of tuition and fees up to a maximum of \$27,000 for veterans attending certain private institutions whose cost exceed \$700 per credit hour and whose total tuition and fees exceed \$17,500 per school year. The substitute was approved by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report the legislation and amendments thereto. Ranking Member Filner of California requested a recorded vote on adoption of H.R. 1383, as amended; the recorded vote was 13 Members voting in favor of adoption, 6 Members voting in opposition. The following table reflects the vote:

Name	Yea/Aye	Nay/No	Notes
Mr. Miller, FL, Chairman	X		
Mr. Bilirakis, FL, Vice Chairman			Absent
Mr. Stearns, FL	X		
Mr. Lamborn, CO	X		
Mr. Roe, TN	X		
Mr. Stutzman, IN	X		
Mr. Flores, TX	X		
Mr. Johnson, OH	X		
Mr. Denham, CA	X		
Mr. Runyan, NJ	X		
Mr. Benishek, MI	X		
Ms. Buerkle, NY	X		
Mr. Huelskamp, KS			Absent
Mr. Filner, CA		X	
Ms. Brown, FL			Absent
Mr. Reyes, TX	X		
Mr. Michaud, ME		X	
Ms. Sánchez, CA		X	

Name	Yea/Aye	Nay/No	Notes
Mr. Braley, IA .....	.....	.....	Absent
Mr. McNerney, CA .....	.....	X	.....
Mr. Donnelly, IN .....	.....	X	.....
Mr. Walz, MN	X	.....	.....
Mr. Barrow, GA .....	.....	.....	Absent
Mr. Carnahan, MO .....	.....	X	.....
Total	13	6	

A motion by Marlin Stutzman of Indiana to order H.R. 1383, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 1383, as amended, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate on H.R. 1383, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate for H.R. 1383, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

ESTIMATED BUDGETARY EFFECTS OF H.R. 1383—Continued

	By fiscal year, in millions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012– 2016	2012– 2021
Estimated Outlays	25	–36	6	0	0	0	0	0	0	0	–5	–5

Housing stipend adjustments

Beginning August 1, 2011, Public Law 111–377 will delay the effective date of the annual increases in housing stipends provided to beneficiaries of the Post-9/11 GI Bill from January 1 to August 1 to coincide with the start of each academic year. Those stipend rates will then remain effective throughout that entire academic year. Thus, for the 2011–2012 academic year, the stipend rates that went into effect on January 1, 2011, will remain unchanged through July 31, 2012. Section 3 of H.R. 1383 would continue those same stipend rates through September 30, 2013, eliminating the increase that will otherwise go into effect on August 1, 2012, and postponing the August 1, 2013, increase by two months. The stipend rates would then return to the levels that would have been payable if no freeze was enacted. Based on information from VA, CBO estimates that holding stipend rates flat for an additional 14 months would reduce direct spending by \$56 million over the 2012–2013 period.

Cap on tuition and fees

Beginning August 1, 2011, P.L. 111–377 will limit the amount of education assistance payable under the Post-9/11 GI Bill for programs at private institutions to the actual cost of tuition and fees (net of scholarships and other financial assistance) or \$17,500, adjusted annually for inflation, whichever is less. Prior to the enactment of P.L. 111–377, the amount of assistance payable was the actual cost of tuition and fees up to the highest in-state tuition and fees charged by a public educational institution in the state where the school is located.

Students attending private institutions where tuition and fees exceed the \$17,500 cap may be eligible for assistance under the Yellow Ribbon G.I. Education Enhancement Program. Institutions entering into Yellow Ribbon Program (YRP) agreements with VA agree to cover a portion of the student’s tuition shortfall. VA then matches the institution’s contribution to further reduce or eliminate the student’s out-of-pocket expenses. Even with the availability of YRP assistance, CBO expects that certain students attending private institutions with high tuition and fees will experience significant out-of-pocket expenses relative to what they would have experienced prior to enactment of P.L. 111–377.

To protect current beneficiaries under the Post-9/11 GI Bill from a mid-stream reduction in education benefits, section 2 would increase the \$17,500 cap to \$27,000 through July 31, 2014. To qualify for the higher cap, those beneficiaries would have to be enrolled in a private institution on or before April 1, 2011:

- Where tuition and fees for full-time attendance exceeded \$17,500 during the 2010–2011 academic year, and

- That is in a state where a public institution charged in-state students more than \$700 per credit hour, as determined by the VA, during the 2010–2011 academic year.

Based on information from VA, CBO estimates that about 4,500 veterans and dependents attending private four-year and graduate institutions in Arizona, Michigan, New Hampshire, New York, Pennsylvania, South Carolina, and Texas would satisfy all three conditions.

Drawing on information from the National Center for Education Statistics and the College Board, CBO calculates that the average amount of tuition and fees for the 2010–2011 academic year for bachelor’s and master’s degrees at private institutions is about \$27,300 and \$24,400, respectively. After adjusting for average benefit levels, average attendance rates, and the higher YRP threshold, CBO estimates that each qualifying beneficiary would receive, on average, about \$5,300 more in education benefits per academic year than they are eligible for under current law. Assuming that a percentage of the eligible population would either graduate or otherwise depart from their respective programs each year, CBO estimates that this provision would increase direct spending by \$51 million over the 2012–2021 period.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that by temporarily modifying the amount of education benefits payable to certain veterans and qualifying dependents under the Post-9/11 GI Bill, H.R. 1383 would decrease direct spending for veterans’ education benefits. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 1383 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON VETERANS’ AFFAIRS ON MAY 12, 2011

	By fiscal year, in millions of dollars—													
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021	
NET INCREASE OR DECREASE (-) IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	25	-36	6	0	0	0	0	0	0	0	-5	-5	

Intergovernmental and private-sector impact: H.R. 1383 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: William Ma; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Elizabeth Bass.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates regarding H.R. 1383, as amended, prepared by the Director

of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act would be created by H.R. 1383, as amended.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section would provide the short title of H.R. 1383, as amended, as the “Restoring GI Bill Fairness Act of 2011.”

Section 2. Preservation of higher rates for tuition and fees for programs of education at non-public institutions of higher learning pursued by individuals enrolled in such programs prior to changes in the maximum amount

Section 2 would change the maximum tuition and fees paid on behalf of certain veterans attending certain high cost non-public institutions of higher learning from \$17,500 to a \$27,000 annually. The change would be effective for three years beginning with enrollments starting in August 2011 through July 31, 2014.

Section 3. Limitation of cost-of-living increases for certain educational assistance programs of the Department of Veterans Affairs

Section 3 provides a PAYGO offset by freezing the amounts of monthly stipend paid under 38 USC 3313(c)(1)(B) of title 38, United States Code, to Post 9/11 participants at the rate in effect on August 1, 2011, for a period of 24 months beginning October 1, 2011. Following the 24 month period, the amount of monthly stipend would be paid at the level currently in effect.

ADDITIONAL VIEWS FOR H.R. 1383 OF THE
HONORABLE BOB FILNER

While I applaud Chairman Miller's efforts to seek to make improvements to the Post 9/11 GI Bill and stand ready to assist any efforts in the future I regretfully am unable to support this measure in its current form.

I voted against this measure in Committee because I oppose the manner in which the \$50 million cost of this bill is paid for. This bill seeks to freeze the G.I. Bill housing stipend, a stipend relied upon by veterans to assist them in getting a college education under the Post 9/11 GI Bill. Taking money away from veterans will be detrimental for those on shoestring budgets who use the housing stipend for rent, transportation and other college costs, especially in the face of ever-increasing energy and food costs.

I support the concept of assisting all of our veterans to receive a college education, but taking from many for the benefit of the few is simply the wrong way to pay for this. We should help veterans attending the private schools, and private schools should also do their part to help veterans. This was the premise underlying the creation of the Yellow Ribbon program, and I believe that all private schools should sign up for this program where the VA will match every dollar that the schools contribute.

The Post 9/11 GI Bill Improvements Act that we passed in December last, which was signed into law in January, was passed with the full support of Veteran Service Organizations. The majority of the VSO's submitted letters of support and strongly advocated for the bill which included the \$17,500 private school tuition cap. Everyone was well aware of the effect of the tuition cap and we should not be acting surprised today or pretending that it was some unintended consequence. Last year's GI Bill updates were agreed upon because they were for the greater good of all veterans not just a select few.

This is why I want to be clear on what this bill does—it removes the private school tuition cap and freezes the housing stipend for all veterans participating in the Post 9/11 GI Bill program across the country.

If we now oppose the private school tuition cap which was agreed to mere months ago, freezing the housing stipend for all participants should not be the first place we look for money—it should be the last place. Veterans have earned this benefit so we should let them keep it.

That this freeze would affect all participants is also why I take issue with the Majority's contention that this freeze will "have the least burdensome financial effect on veteran students while meeting PAYGO requirements." I recognize that we often are forced to make tough decisions regarding our national priorities, but I believe strongly that meeting our obligations to veterans is one of our

very highest priorities. Again, I ask my colleagues to look elsewhere than the already-strained student budgets of our veterans. We all should agree that a highly educated and well-trained workforce is essential for American economic success in the future, and we should be doing all we can to encourage our veterans to seek higher education. The original GI Bill was the impetus behind the creation of a strong and stable middle class, and freezing this important benefit does nothing to assist these veterans.

Finally, I am concerned that enacting this measure may result in delayed payments to Post 9/11 GI Bill participants, as the Department of Veterans Affairs testified during the Subcommittee hearing on this measure. This Committee has worked tirelessly in a bipartisan fashion since enactment of the Post 9/11 GI Bill, holding numerous hearings regarding the VA's ability to implement this program, in order to make sure that veterans receive these vital benefits.

Now is not the time to risk payment delays, and now is not the time in this current economic environment to freeze the benefits accorded to the many in order to benefit the few.

BOB FILNER.

